

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ALABAMA  
NORTHEASTERN DIVISION**

KALVIN ANDREAS SNOWDEN,

Plaintiff,

V.

DEPARTMENT OF CORRECTIONS, et. al,

**Defendants.**

CV 04-S-288-NE

## MEMORANDUM OF OPINION

The magistrate judge filed a report and recommendation on April 20, 2004, recommending that all claims against defendants Mitchem, Wise, and DeGraff be DISMISSED pursuant to 28 U.S.C. § 1915A(b)(1) and/or (2). The magistrate judge further recommended that plaintiff's request for injunctive relief in the form of a court order to remove defendant Walter from Limestone Correctional Facility and terminate her employment with the Department of Corrections be DENIED. Finally, the magistrate judge recommended that the Eighth and Fourteenth Amendment claims against defendant Walter be REFERRED to the magistrate judge for further proceedings. No objections have been filed by plaintiff.

Having carefully reviewed and considered *de novo* all the materials in the court file, including the report and recommendation, the Court is of the opinion that the magistrate judge's report is due to be and is hereby ADOPTED and the recommendation is ACCEPTED with one AMENDMENT. Accordingly, all claims against defendants Mitchem, Wise, and DeGraff are due to be DISMISSED pursuant to 28 U.S.C. § 1915A(b)(1) and/or (2). Additionally, plaintiff's request for injunctive relief in the form of a court order to remove defendant Walter from Limestone Correctional Facility and terminate her employment with the Department of Corrections is due to

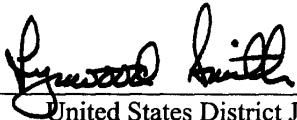
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be DENIED. Plaintiff's Eighth and Fourteenth Amendment claims against defendant Walter are due to be REFERRED to the magistrate judge for further proceedings.

The report and recommendation is also due to be AMENDED in the following manner. Plaintiff names "State of Department of Corrections" as defendant in the style of his complaint. (Document #1, at 1). However, Section III. B. of the complaint does not list the Department of Corrections as a party defendant, nor are any claims made against the Department of Corrections in the body of the complaint. *Id.* at 3. Nevertheless, because the Department enjoys Eleventh Amendment immunity from suits filed pursuant to 42 U.S.C. § 1983, any claims against the Department of Corrections are due to be DISMISSED pursuant to 28 U.S.C. § 1915A (b)(1) or (2). *Alabama v. Pugh*, 438 U.S. 781, 782, 98 S.Ct. 3057, 57 L.Ed.2d 1114 (citing *Edelman v. Jordan*, 415 U.S. 651, 662-71, 94 S.Ct. 1347, 39 L.Ed.2d 662 (1974)). (other citations omitted).

An appropriate order will be entered.

DATED this 17<sup>th</sup> day of May, 2004.

  
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United States District Judge